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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------|------------------|
| 10/534,224 | 05/06/2005 | Helmut Strauch | STRAUCH -1 PCT | 5296 |
| 25889 | 7590 | 12/22/2008 | | |
| COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576 | | | EXAMINER NGUYEN, DUNG V | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3723 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 12/22/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/534,224 | Applicant(s) STRAUCH, HELMUT | |
| | Examiner Dung Van Nguyen | Art Unit 3723 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 4-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/2/2007 & 5/6/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of species 2, claims 1-3 and 10-15 in the reply filed on 29 September 2008 is acknowledged. The traversal is on the ground(s) that any search for the invention in Fig. 2 would necessarily include a search for the species in Fig. 1. This is not found persuasive because there is examination and search burden for these species due to their mutually exclusive characteristics. The species requires a different field of search.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Miles (USN 5,408,720). Miles discloses a scrape blade mounting device comprising a cover plate 42 and base plate 14, wherein the cover plate 42 and base plate 14 are pivotable relative to one another about an axis 12, a finger device 16 fastened to the cover plate 42, the cover plate 42 is connected to a square tube (unnumbered, note Fig. 3) and bearing tube 12 is positioned within the square tube and rotatable relative thereto, a first plate (unnumbered, note Fig. 4) fastened to the base plate 14 at one end, a second spring plate 22 which bridges over the region between the end of the base

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plate 14 and the cover plate 42, one end region of the second spring plate 22 is fixedly connected with the cover plate 42 and the other end region of the second spring plate 22 is supported at the outer side of the base plate 14, a hose 24 is arranged in the inner region of the base plate 14 between the base plate 14 and the cover plate 42, wherein the finger device 16 is fastened to the cover plate 42 and an end of the scraper blade 2 is insertable between the cover plate 42 and the finger device 16 (note Fig. 3 and 4, col. 2, lines 6-60).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hendrikz, Dunlap et al, Aikawa, Harrisson and Rata are cited to show related inventions.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Van Nguyen whose telephone number is 571-272-4490. The examiner can normally be reached on PHP Program.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dung Van Nguyen/
Primary Examiner, Art Unit 3723